



Ginger
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

December 31, 1980

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ARIZONA ATTORNEY GENERAL

Mr. Mark R. Christensen
Deputy County Attorney
Office of the Pima County Attorney
900 Pima County Courts Building
111 West Congress Street
Tucson, Arizona 85701

Re: I80-230 (R80-265)

Dear Mr. Christensen:

We have reviewed your opinion dated December 4, 1980, to the Superintendent of the Ajo Unified School District concerning competitive bidding.

We concur with your conclusion that where a vehicle is purchased for an amount in excess of \$5,000, it would be improper to reduce this by the amount of the trade-in value of a used vehicle, thereby eliminating the requirement for competitive bidding. As you have stated, it is the cost of the vehicle which triggers the bidding requirement contained in A.R.S. § 41-730, rather than the method of payment.

Your opinion also addressed a situation in which the district has executed three separate purchase orders for a tractor, loader with component parts, and a scrapper, the sum of which exceeded \$5,000.

We concur with your conclusion that these purchases appear to constitute one transaction. Splitting a transaction must have a reasonable basis and may not be split for the purpose of avoiding the bidding statutes. See Secrist v. Diedrich, 6 Ariz. App. 102, 420 P.2d 448 (1967). See, also, Ariz.Op.Atty.Gen. No. 80-15.

Sincerely,

Bob Corbin

BOB CORBIN
Attorney General

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STEPHEN D. NEELY
PIMA COUNTY ATTORNEY
DAVID G. DINGELDINE
CHIEF DEPUTY

December 4, 1980

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R80- 265

Mr. Joseph H. Schlotterer, Ph.D.
Superintendent of Schools
Ajo Unified School District 15
P. O. Box 68
Ajo, Arizona 85321

EDUCATION OPINION
ISSUE NO LATER THAN
2-6-80

Re: Your letter of November 20, 1980

Dear Dr. Schlotterer:

I have reviewed the facts set out in the letter referred to above in light of Arizona Revised Statutes §§ 41-730 et seq., Arizona Department of Education R7-2-701 and the Arizona Department of Education Bidding Task Force Report of February 1978. It appears that there is neither statute nor case law, administrative regulation nor committee interpretation which directly answer your questions. However, certain inferences can be drawn from these sources which yield reasonable answers to your questions.

In Case #1, the operative price is the total of the base price plus the sales tax. Thus, the cost to the District, using the figures in your letter, is \$7,997.83. I do not believe the \$2,900.00 set-off from a vehicle which was traded reduces, for purposes of the competitive bid requirement, the cost to the District below the \$5,000.00 figure. The reason this is so is that the District, in effect, paid the \$2,900.00, not in cash, but in trading the used vehicle which had a value of \$2,900.00. It is, therefore, my conclusion that this automobile should have been purchased through the usual bid process.

The Arizona Department of Education Bidding Task Force Report of February 1978, lends some guidance with regard to Case #2. The answers to questions 5 and 8 (at pages 17 and 18 of the Report respectively) discuss what constitutes a "transaction." The drafters of the Report define a bidding transaction as an offer to buy a number of items which may logically be grouped together in an effort to obtain a quantity discount and further indicate that where the items constitute one transaction, the cost of which exceeds \$5,000.00, a sealed, competitive bid procedure is required by law. The tractor, loader and scrapper involved in this case were enumerated on three separate purchase orders. It would appear, however, that they constitute one "transaction" within the meaning of Arizona Revised Statutes § 41-730. Presumably, all three items were purchased from

Mr. Joseph H. Schlotterer, Ph.D.
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the same dealer and manufactured by the same company. They are, no doubt, designed to be used in various combinations to perform various functions; the District, I am informed, will use them in this fashion. Because the total price of the three pieces of equipment exceed \$5,000.00, I am of the opinion that they too should have been purchased through the usual competitive bid process.

Pursuant to Arizona Revised Statutes §15-122, a copy of this letter has been sent to the Attorney General for his review, concurrence or revision. You are advised that, under the provisions of Arizona Revised Statutes §15-436(B), Board members avoid personal liability for their actions only by acting on the written opinion of the Attorney General or its statutory equivalent. If you have any questions, please call me at 792-8321.

Sincerely,

STEPHEN D. NEELY
PIMA COUNTY ATTORNEY

By


Mark R. Christensen
Deputy County Attorney

MRC/aca

cc: Randy Walker, President
Board of Education